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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,760	01/13/2003	Tetsujiro Kondo	450101-03158	3056

7590 03/30/2007
William S Frommer
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New York, NY 10151

EXAMINER

DURNFORD-GESZVAIN, DILLON

ART UNIT	PAPER NUMBER
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2622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/009,760

Applicant(s)

KONDO ET AL.

Examiner

Dillon Durnford-Geszvain

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,9,10,14-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,10,14-16 and 19 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/2007 has been entered.

Response to Amendment

2. Claims **1-4, 9, 10, 14-16** and **19** are pending, claims **1-4, 9, 10, 14-16** and **19** have been amended and claims **5-8, 11-13, 17, 18** and **20-38** have been cancelled.

Response to Arguments

3. Applicant's arguments with respect to claim **1** have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-4, 10, 14-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,418,546 (Nakagakiuchi et al.) in view of US 5,517,242 (Yamada et al.).

6. As to claim 1, Nakagakiuchi et al. teaches an image pick-up apparatus for picking up an image of an object (see Fig. 13), the image pick-up apparatus comprising: an image pick-up unit 39 (see Fig. 13) having a light receiving surface configured to receive light from the object to carry out photo-electric conversion (this is inherent to CCDs), and adapted to output a pixel value obtained as the result of the photo-electric conversion (this is also inherent); an evaluator 43 configured to evaluate the pixel value; and a controller 45 configured to control, in pixel units (Column 14 lines 15-21), exposure time with respect to the light receiving surface on the basis of the evaluation by the evaluator (Column 14 lines 15-21).

What Nakagakiuchi does not explicitly teach is a storage unit for ^{storing}~~storing~~ pixel values of plural pixels and exposure values of plural pixels; and a correcting unit for correcting pixel values stored in the storage unit on the basis of said exposure times.

However, Yamada et al. teaches a storage unit 4 (see Fig. 1) configured to store plural pixel values D1 and D2 output from the image pick-up unit and the exposure times T1 and T2 of pixels corresponding to the plural pixel values; and a correcting unit 3 configured to correct the plural pixel values stored in the storage unit based on the exposure times stored in the storage unit (Column 7 lines 47-67 and Column 8 lines 45-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to have used the correction technique of Yamada et al. as this would increase the dynamic range.

Claim **14** is a method that corresponds to the apparatus of claim **1** and is therefore rejected on the same grounds as claim **1** but drawn to a method instead of an apparatus.

Claims **15** and **16** are programs that correspond to the apparatus of claim **1** and are therefore rejected on the same grounds as claim **1** but drawn to a program instead of an apparatus.

As to claim **2**, see the rejection of claim **1** and note that Nakagakiuchi et al. further teaches the image pick-up apparatus as set forth in claim **1**, wherein the evaluator evaluates whether or not the pixel value is value within a predetermined range (Fig. 18 and Column 13 lines 56-60); and wherein when the pixel value is not value within the predetermined range, the controller controls the exposure time with respect to the pixel of the light receiving surface corresponding to that pixel value so that the pixel value is caused to be value within the predetermined range (Column 14 lines 15-21).

As to claim **3**, see the rejection of claim **2** and note that Nakagakiuchi et al. further teaches the image pick-up apparatus as set forth in claim **2**, wherein the controller is operative so that when the pixel value is a predetermined value or more, the controller shortens the exposure time with respect to the pixel of the light receiving

surface corresponding to that pixel value (Column 14 lines 3-21).

The Examiner believes that claim 4 could be interpreted in multiple ways. First, the pixels are all evaluated as a group to determine the average luminance of the pixels and if this average luminance is less than a predetermined value the exposure time is elongated for all pixels. Secondly, the pixels are evaluated individually and if the individual luminance is less than a predetermined value the exposure time for only that pixel is elongated.

In the first case, Nakagakiuchi et al. further teaches that if the value output by an adder is less than a predetermined amount the exposure time of the imager is elongated relative to a "normal" exposure time (Column 14 lines 22-27). This would be a 102(b) rejection.

In the alternative case, Nakagakiuchi et al. teaches evaluating the pixel luminance individually and if the luminance is too high shortening the exposure time (Column 14 lines 3-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have also elongated the exposure time of individual pixels if the luminance of that pixel is low as this would improve the dynamic range of the image pick-up apparatus.

As to claim 10, see the rejection of claim 1 and note that Yamada et al. teaches displaying the corrected image (Column 8 lines 35-37).

As to claim 19, Nakagakiuchi et al. teaches an image pick-up control apparatus (see Fig. 17) for controlling an image pick-up section (39 with 36, see Fig. 13) having a light receiving surface for receiving light from an object and adapted to output pixel values obtained as the result of the photo-electric conversion, the image pick-up control apparatus comprising: an evaluating section 43 for evaluating the pixel value (Column 13 lines 56-60); and a controller for outputting, to the image pick-up section, a control signal for controlling, in a predetermined surface unit, an exposure time with respect to the light receiving surface on the basis of evaluation result by the evaluating section (Column 14 lines 15-21).

What Nakagakiuchi does not explicitly teach is a storage unit for storing pixel values of plural pixels and exposure values of plural pixels; and a correcting unit for correcting pixel values stored in the storage unit on the basis of said exposure times.

However, Yamada et al. teaches a storage unit 4 (see Fig. 1) configured to store plural pixel values D1 and D2 output from the image pick-up unit and the exposure times T1 and T2 of pixels corresponding to the plural pixel values; and a correcting unit 3 configured to correct the plural pixel values stored in the storage unit based on the exposure times stored in the storage unit (Column 7 lines 47-67 and Column 8 lines 45-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the correction technique of Yamada et al. as this would increase the dynamic range.

Allowable Subject Matter

7. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter: see the previous Office Action for reasons for indicating allowable subject matter.

Conclusion

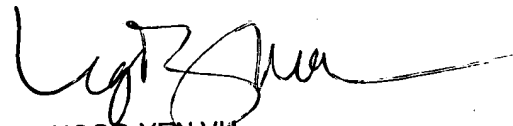
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dillon Durnford-Geszvain whose telephone number is (571) 272-2829. The examiner can normally be reached on Monday through Friday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc-Yen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dillon Durnford-Geszvain

3/21/2007



NGOC-YEN VU
SUPERVISORY PATENT EXAMINER